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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,204	08/26/2005	Uwe Zoller	SMB-PT155 (PC 04 019 B US	7991
3624	7590	07/20/2007	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			BOECKMANN, JASON J	
		ART UNIT	PAPER NUMBER	
		3752		
		MAIL DATE		DELIVERY MODE
		07/20/2007		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/547,204	ZOLLER, UWE
	Examiner	Art Unit
	Jason J. Boeckmann	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 December 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 8/26/2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the disclosure as well as the claims what the phrase "substantially complementarily form fitting" means in line 3 of claim 2. Is the applicant referring to a sloped surface having the same slope as the sieve or is a step in the same direction as the sloped surface of the sieve "substantially complementarily form fitting"? Additionally, the term "substantially complementarily form fitting" is not defined in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

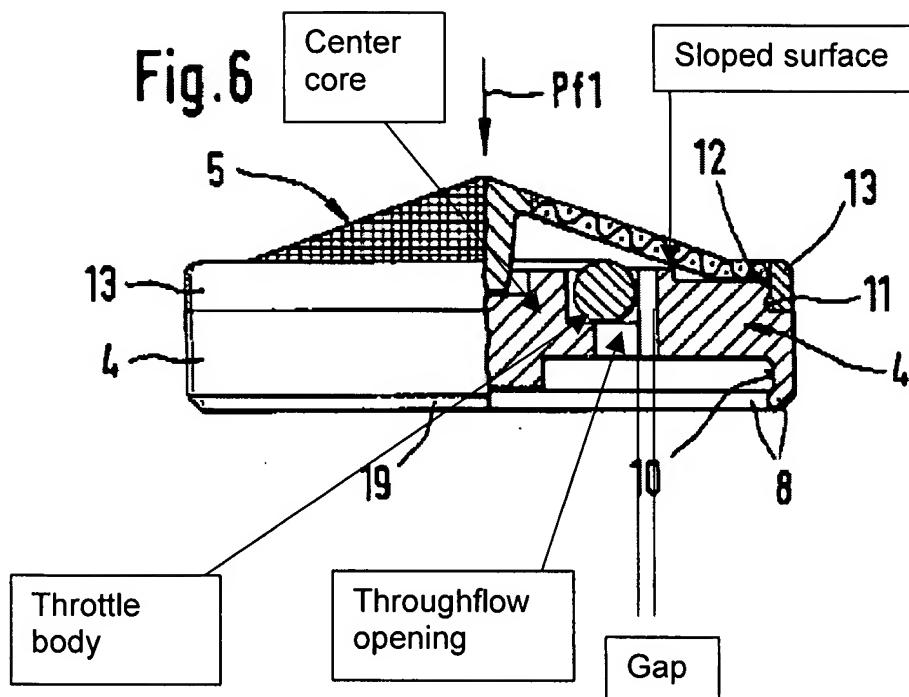
Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Muchenberger et al (5,769,326).

Muchenberger et al shows a unit for insertion into a discharge fitting comprising: a substantially cone-shaped upstream sieve (5) with a throughflow regulator (4) and a

jet regulator (3) positioned downstream in a flow direction, wherein the throughflow regulator is arranged generally inside an interior space (fig 1) of the insert defined by the upstream sieve. The throughflow regulator is provided with a cross-sectional profile that is substantially complementarily form fitting a cross-sectional profile of the upstream sieve (fig 1).

Regarding claims 3 and 7, the throughflow regulator has an exterior edge with a radially inward rising sloping surface (the top of the throughflow regulator where the surface steps up to substantially conform to the cross-section of the sieve (5) has a 90 degree inwardly rising sloped surface) which leads to a throughflow opening connected to a control gap (see examiners marked up figure 6 below). The control gap is also provided with a central core area which is surrounded by a throttle body and the rising sloped surface having a throughflow cross-section being adjustable by the throttle body.

Examiners marked up figure 6



Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wildfang (4,470,546).

Wildfang shows a unit for insertion into a discharge fitting comprising: a substantially cone-shaped upstream sieve (6) with a throughflow regulator (10) and a jet regulator (8) positioned downstream in a flow direction, wherein the throughflow regulator is arranged generally inside an interior space (5) of the insert defined by the

upstream sieve. The throughflow regulator is provided with a cross-sectional profile that is substantially complementarily form fitting a cross-sectional profile of the upstream sieve (fig 1). The throughflow regulator has an exterior edge with a radially inward rising sloping surface (13) which leads to a throughflow opening (9) connected to a control gap (a).

Regarding claim 7, the throughflow regulator is provided with a central core area (19, 23) which is surrounded by a circular throttle body (11), and between the throttle body and the rising sloped surface a control gap is formed (a) having a throughflow cross-section being adjustable by the throttle body.

#### ***Allowable Subject Matter***

Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 12/26/2006 have been fully considered but they are not persuasive.

Regarding the applicant's remarks towards the 112 second paragraph issue, it is still unclear as to what is meant by the term "substantially complementarily form fitting." See rejection above.

Regarding the applicant's arguments towards the 102 rejections, the claim language states that the throughflow regulator is "arraigned **generally inside an interior space of the insert** defined by the upstream sieve." It is respectfully noted that the throughflow regulator (4) of Muchenberger's invention is located generally inside a space, by which the top is defined by the upstream sieve (5), the space being in the insert. The word generally is taken to mean that not all of the throughflow regulator has to be inside the said space, but that most of it has to lie inside the said space. Additionally, the claim is being interpreted to mean that the upstream sieve does not have to define the entire space, but the fact that it defines a portion of the space is sufficient. The same argument applies to the Wildfang reference.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJB JJB 7/16/07

  
KEVIN SHAYER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700